



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 8 October 2013

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SCHENGEN 35
CSC 120
DATAPROTECT 141**

NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Summary of the meeting of the Civil Liberties, Justice and Home Affairs Committee of the European Parliament, held in Brussels on 3 October 2013

The meeting was chaired by Mr López Aguilar (S&D, ES).

Items 1,2 and 3 on the agenda

Adoption of agenda, Chair's announcements, approval of minutes, state of play of on-going interinstitutional negotiations in legislative procedures

The agenda was adopted as proposed. Mr Iacolino (EPP, IT) was nominated the rapporteur for the proposal on the European Public Prosecutor's Office, Mr Voss was nominated the rapporteur for the proposal on the Eurojust reform. Mr Protasiewicz (EPP, PL) was nominated rapporteur for the proposed directive on new psychotropic substances. The vote on the data protection regulation was to take place on 21 and 24 October 2013 in Strasbourg. The minutes of the meetings of October, April and May were adopted. Mr Melo (EPP, PT) reported back on the progress of the directive on the European Investigation Order in criminal matters. He explained that work had progressed well under the Irish Presidency and was continuing under the Lithuanian Presidency with a view to preparing a report by the beginning of 2014.

Item 5 on the agenda

The situation of fundamental rights in the European Union (2012)

2013/2078(INI)

Rapporteur: Louis Michel (ADLE)

PR – PE519.501v01-00

DT – PE514.668v01-00

DT – PE514.669v02-00

Responsible: LIBE –

Opinions: EMPL – Ádám Kósa (PPE) PA – PE519.701v01-00

FEMM – Antigoni Papadopoulou(S&D)

PA – PE519.746v01-00

PETI – Decision: no opinion

The rapporteur explained that the report was divided into two parts: a chapter on institutional issues and a chapter on specific rights based on the Charter of Fundamental Rights. In recent years the EU had witnessed constitutional crises in several Member States. This had generated an important debate on how to develop a mechanism which could deal with such challenges. The EP had been in the lead of advocating the need to address these questions. He stressed that there were competing visions between the EP and the Commission on what could be done immediately and without any need to change the Treaty. It was essential in his view to use the existing Treaty provisions to their fullest potential, with a rigorous policy of evaluation and monitoring. He called for the swift ratification by the EU of the ECHR, a European policy cycle on the application of Article 2, as well as better cooperation with Council of Europe. The Commission should develop indicators and benchmarks and monitor the situation in the EU and its Member States. In the second part of the report, focusing on specific rights based on the Charter of Fundamental Rights, the rapporteur took various reports by NGOs as his sources. He said there were far too many violations and they concerned all the Member States. Together with the shadow rapporteurs he was going to discuss the possibility of having a list of violations.

Mr Melo, on behalf of the EPP and its rapporteur Ms Bauer, stated during the discussion that the situation depicted in paragraphs 2-7 was far from the reality and was counterproductive. In the EPP's view, the EU had a well-developed system of protection of fundamental rights with established reporting and various programmes with appropriate funding as well as judicial control. He stressed that the present report risked politicising this issue and rejected the proposal to create new bodies, in particular noting that the Commission and the EP were eminently political institutions. He opposed the creation of a policy cycle on Article 2 as well as the preference that fundamental rights protection be guaranteed by the judiciary. Mr Claeys (BE, NI) regretted that the report had not raised any new issues and disagreed with the part of the report touching upon the work of the police and coast guard services, Roma integration and immigration. Mr Tavares (Greens, PT) welcomed the report, which was in line with the consensus within the EP on the need to strengthen the current framework of protection, and expressed surprise at the EPP's statement. He called for an annex to the report which would include a country-by-country account of violations in order to provide a full picture. Regarding cooperation with the Council of Europe, he would avoid any division of tasks between the Council of Europe and the EU, as this would weaken the credibility of both organisations. A vital step to be taken was to create non-political bodies to deal with fundamental rights issues. Ms Sippel (S&D, DE) stressed that EU citizens expected fundamental rights issues to be fully addressed. She said a political debate was necessary and effective tools had to be developed for critical analysis. Mr Stier (EPP, CRO) said references to various resolutions adopted by the EP should be included, notably the resolution on totalitarian regimes and reconciliation, which has not been adhered to in some Member States, in order to improve the coherence of the report. Mr Plenkovic (S&D, CRO) spoke about accession negotiations for the chapter on fundamental freedoms and rights, noting the strong and important body of existing legislation and practice, which was of utmost importance for future accession negotiations.

The Commission representative mentioned recent statements by its President addressing the need to find a balance between political persuasion, targeted procedure and the nuclear option of Article 7. A communication had been announced. He stressed the Commission's role as an objective and independent referee and that any future rule-of-law initiative would only be activated if the risk was systemic and evaluation based on predefined benchmarks ensuring equality between Member States and preventing any double standards. The Commission was going to organise a major meeting with various stakeholders in November.

The rapporteur said he was surprised by Mr Melo's intervention and the claim that there was a risk of politicising the issue. He stressed that his report proposed the use of objective indicators and was against any politicisation. He intended to look at the proposed country-by country-breaches. He asked for written contributions by members in order to complete the report.

Deadline for tabling amendments: 14 November 2013, 12.00

Item 5 on the agenda

Listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement

***I 2012/0309(COD) COM(2012)0650 – C7-0371/2012

Rapporteur: Mariya Gabriel (PPE)

PR – PE504.389v01-00

AM – PE514.815v01-00

Responsible: LIBE –

Opinions: AFET – Decision: no opinion

JURI – Decision: no opinion

The rapporteur asked for a postponement of the vote for two weeks in view of an important oral amendment tabled, which proposed the inclusion of Peru and Colombia on the list of countries whose nationals do not require visas. She proposed to take up contacts with the UAE, Peruvian and Colombian authorities in order to examine the issue of their preparedness in full transparency and take an informed decision. Ms Fajon (S&D) supported the postponement in order to have more time for serious consideration of the oral amendments. Mr Michel (ALDE, BE) said that a postponement would unnecessarily delay the vote without bringing any decisive new information, resulting in delaying the vote indefinitely and penalising the insular ACP countries. He proposed that the vote should be held. Mr Kirkhope (ECR, UK) stressed that he wished this country list now to remain closed. Ms Zdanoka (Greens, LV) and Ms Ernst (GUE, DE) supported the postponement. Mr Diez de Mera (EPP, ES) made a case for adding Peru and Colombia to the list since they fulfilled all the necessary criteria. Ms Sippel (S&D, DE) questioned the seriousness of such last-minute oral amendments. The Chair clarified that the oral amendments concerning additional countries (Kuwait, Qatar and Ukraine) had been withdrawn, and that only Peru and Colombia remained. The committee adopted the decision to postpone the vote by 32 votes to 24.

Item 6 on the agenda

***EU and Member State measures to tackle the flow of refugees as a result of the conflict in Syria
2013/2851(RSP)***

Responsible: LIBE –

The draft resolution was adopted with no amendments.

Item 8 on the agenda

***Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and
Components and Ammunition, supplementing the United Nations Convention against
Transnational Organised Crime***

****** 2013/0083(NLE)***

COM(2013)0154

Rapporteur: Véronique Mathieu Houillon (PPE)

PR – PE519.513v01-00

Responsible: LIBE –

Opinions: INTA – Decision: no opinion

ITRE – Decision: no opinion

IMCO – Decision: no opinion

Mr Voss read out a statement on behalf of the rapporteur. He noted the aim and purpose of this protocol, signed in 2002, and the fact that work could now be concluded with implementation completed in the Member States. The EU could now approve the conclusion of this very important protocol. Combating illegal arms trafficking was one of the priorities in fighting organised crime and effective cooperation between Member States was essential. It was regrettable that Member States did not exchange more information on issues such as assault weapons and Mr Voss called for better cooperation through Europol on this issue. Mr Moraes (S&D, UK) thanked Mr Voss for the comprehensive presentation, confirmed S&D's full support for the report and said he would not be tabling any amendments.

Item 10 on the agenda (in camera)

Modernisation of the Council of Europe Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data

LIBE/7/14101

Presentation of the state of play of negotiations by Françoise Le Bail, Director-General for Justice, European Commission.

Item 13 on the agenda

5th Hearing of the LIBE Inquiry on Electronic Mass Surveillance of EU citizens

The Hearing was chaired by Ms in t'Veld (ALDE, NL). LIBE had invited representatives of Belgacom and the Belgian Data Protection authority as well as Sir Lobban, Director of GCHQ (the UK's Government Communications Headquarters).

At the beginning of the meeting the Chair explained that the UK authorities had sent a letter informing the EP that the UK was declining the invitation. The letter was made available to MEPs and published on the EP's site.

The Belgacom representatives, Mr Standaert and Mr, Lybaert, explained that in June Belgacom had become aware of a large-scale IT hacking incident (malware) in their internal IT systems. They stressed that only about 124 out of 126 000 systems were affected and customer data was not compromised. The attack had been very sophisticated and complex, clearly indicating very considerable resources behind the IT attack. They had informed the regulator as well as the prosecution services and lodged a complaint. Belgacom has no indication of the origin of the IT attack, and moreover there is an on-going judicial investigation. Belgacom was not able either to confirm or deny any press allegations in relation to this incident. They have since successfully cleaned up their systems.

The third invited speaker, Mr Robben, the representative of the Belgian data protection authorities, said they were studying the incident. However with the information currently available there were no indications that individuals' personal data had been affected. For the time being this could not be considered a major incident from the personal data protection perspective.

During the debate MEPs raised the following issues: what the origin of the attack had been, what the intended target was, notably whether it had been the BICS system (the central router for roaming communications), what kind of data had been affected, whether European Institutions' communications had been affected, in particular those of the EP, allegations of involvement of British GCHQ, possible involvement of the Europol Cybercrime Centre (EC3) in the current investigation. Several MEPs expressed criticism of the decision by the UK authorities not to participate.

The Belgacom representative explained that they could not speculate on possible perpetrators or motives and were awaiting the results of the judicial investigation. They reiterated that customers, including European Institutions, were not affected.

Replying to the questions raised, Mr Robben explained that the malware had not yet been decrypted and that this was an essential step in order to understand this incident. He called for an EU competency centre on encryption.

The Chair and the rapporteur, Mr Moraes, concluded that the hearing raised many questions that remained unanswered, and that they had received very limited clarification.

Date of next meeting

- 7 October 2013, 19.00 – 21.30 (Strasbourg)
